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4 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
5 AT TACOMA

6 DONALD C. HAYES,

7 Plaintiff,

8 v.

9 STATE OF WASHINGTON, et al,

10 Defendants.

Case No. 3:17-CV-05759-RBL-TLF

ORDER GRANTING PLAINTIFF'S
MOTION TO FILE EXTENDED
BRIEF AND DENYING
PLAINTIFF'S MOTION FOR AN
ORDER TO ACQUIRE ESI

11 This matter is before the Court on plaintiff's filing of a motion for leave to file an
12 extended brief (Dkt. 19) in opposition to defendants' motion to dismiss (Dkt. 12). That motion is
13 GRANTED.

14 Plaintiff also has filed a motion for an order to acquire electronically stored information
15 ("ESI") (Dkt. 18). Plaintiff seeks "any and all" security camera video footage of the Washington
16 State Penitentiary's "pill line window" from May 7, 2017, which he indicates will undermine the
17 serious infraction report "which placed [him] in IMU based on a lie." *Id.* at p. 2.

18 According to the Washington State Department of Corrections ("DOC") Agency Legal
19 Liaison Officer, Sharir Hall, "[t]he WSP maintains a security surveillance video system
20 throughout its facility." Dkt. 28, p. 1. However, "unless video data is requested to be exported
21 from the system to provide support for civil litigation, prosecution of defense of criminal actions,
22 or for other quasi-judicial actions, the data is overwritten by the system after 30 days." *Id.* at p. 2.

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1 Plaintiff does not allege he made such a request, and based on Mr. Hall's declaration, it
2 appears that he never did. Dkt. 28, p. 2. A search for the relevant security surveillance video
3 footage by Mr. Hall also failed to turn any up, indicating that the May 7, 2017 video data "was
4 overwritten and therefore no longer exists." *Id.*

5 Accordingly, plaintiff's motion for an order to acquire ESI (Dkt. 12) is DENIED as moot.

6 Dated this 16th day of August, 2018.

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10 Theresa L. Fricke
11 United States Magistrate Judge
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